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Remarks

Status of Claims:

Claims 10-16 and 22-26 stand rejected. Claims 10, 11, 14, 16, 22, and 24 are amended.
Claims 10-16 and 22-26 remain pending.

Support for the claims is found in the specification and drawings as filed, including but not limited to Figure 10 and page 9, lines 31-32. No new matter is added.

§102 Rejections

Claims 10-11, 14, and 22-26

Claims 10-11, and 14 are rejected as anticipated by US 3,643,653 (Takahashi). It is respectfully urged that this rejection is improper for at least the following reasons.

Claim 10 is amended to recite, among other things, that the handle is sized and shaped to be gripped by a single hand and that the actuator is operable by the same hand for operating the end effector through the flexible member with the portion of a portion of the flexible member in a looped configuration behind the same hand.

It is respectfully urged that Takahashi does not teach or suggest that portion of tube 14 of Takahashi is looped as recited in claim 10. Further, it is not clear that Takahashi's control housing 12 is sized and shaped to be gripped by a single hand and the knob 36 of Takahashi provides an actuator that is operable by the same hand used to grip the control housing 12.

Claim 10 is also amended to the actuator is disposed on the handle to be operated by the same hand holding the handle without the use of the thumb or index finger of the same hand, while the thumb and index finger of the same hand are free to grip and advance the portion of the flexible member in a looped configuration.

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Even if one assumes (for the sake of argument only) that one could hold the control unit with a single hand and operate the knob 36 with the same hand, it is respectfully urged that Takashi does not teach disposing the knob 36 on the control unit 12 such that the thumb and index finger of the same hand holding the control unit 12 are free to grip and advance a portion of the tube 14 of Takashi.

If the Examiner disagrees, the Examiner is requested to specifically point out what portion or portions of Takahashi would support the Examiner's rejection. In particular, the Examiner states that "Flexible tube 14 is long enough and flexible enough to be bent backwards to be grasped by the operators index finger and thumb." The Examiner is respectfully requested to point out what in the art of record supports this position.

The Examiner also cites Ex part Marsham for the proposition that a recitation with respect to the manner in which a claimed apparatus is intended to be used does not differentiate the claim from art satisfying the claimed structural limitations. It is respectfully urged that the Applicant is not relying on intended use. Instead, Claim 10 recites the actuator is disposed on the handle in such a way that is not taught and not suggested by Takahashi, and the rejection should be withdrawn.

Claim 11:

Claim 11 is amended to recite the end effector is selected from the group consisting of a biopsy forceps, grasping forceps, and surgical scissors. It is respectfully urged that Takahashi does not teach or suggest such an end effector.

Claim 14:

With respect to Claim 14, the Examiner states that Takahashi's eye piece is considered part of the handle, referring to Figure 18. It is respectfully urged that considering the "eye piece" as part of the "handle" is not a correct characterization of Takahashi's control unit 12.

Also, Takashi describes Figure 18 as showing a modification of the endoscope, and Figure 18 does not appear to show an actuator or other features as recited in Claims 10 and 14.

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Accordingly, the Examiner appears to be merely picking and choosing views from different endoscopes disclosed in Takahashi to "cobble together" the subject matter of Claim 14.

However, even if one assumes for the sake of argument only that the Examiner is correct in considering the eye piece in rejecting Claim 14, Claim 14 is amended to recite the handle outer surface extending lengthwise intermediate the handle proximal and distal ends, with the handle outer surface having a maximum width portion disposed intermediate the handle proximal and distal ends, wherein the handle outer surface has a length that is greater than the width of the maximum width portion, and wherein the actuator comprises a lever extending alongside the maximum width portion of the handle outer surface.

It is respectfully urged that even considering the "eye piece" of Takahashi as the Examiner suggests, the drawings and specification of Takahashi do not teach or suggest the subject matter of amended Claim 14.

103 Rejections;

Claims 12-13 are rejected as unpatentable over Takahashi in view of 5,624,379 (Ganz). It is respectfully urged that this rejection should be withdrawn for at least the reason that the rejection is based on the application of Takahashi to Claim 11, and Takahashi does not teach or suggest the subject matter of amended claim 11.

Similarly, the rejection of Claim 15 as obvious over Takahashi in view of 6,533,797 (stone) should also be withdrawn for at least the reason that Takahashi does not teach or suggest the subject matter of amended claim 11.

In addition, Claim 15 is amended to recite, among other things, the actuator comprises a lever positioned to be squeezed between fingers of the same hand holding the handle and a housing portion of the handle, and wherein the lever extends alongside the housing portion of the handle and the lever has a length at least half the length of the handle.

It is respectfully urged that even if one combined Takahashi and Stone, the resulting combination would not teach or suggest the subject matter of amended Claim 15. For instance, but without

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limitation, Stone discloses squeezing together "handles 34" (column 3, lines 53-60.) Stone does not teach or suggest a lever extending alongside a housing portion of a handle and positioned to be squeezed between fingers of the same hand holding a handle and a housing portion of the handle.

Claims 16 and 22-26 are rejected as obvious over Takahashi in view of 6,620,184 (de Laforcade).

Amended Claim 16 recites among other things:

a handle;

a flexible shaft extending intermediate the end effector and the handle;

the handle comprising:

a housing, the housing being longer than the housing is wide, and the housing sized and shaped to be grasped by a single hand;

an actuator comprising a lever extending lengthwise alongside the housing and operable by the hand holding the housing to actuate the end effector from the first configuration to the second configuration; wherein at least the thumb and index finger of the same hand holding the housing are free to grip and release the flexible shaft of the device; and
a release operable for returning the end effector to the first configuration.

It is respectfully urged that even if one combined Takahashi and de Laforcade, the resulting combination would not teach or suggest a handle having a housing longer than and it is wide and a lever extending lengthwise alongside the housing.

Additionally, the resulting combination would not teach or suggest a handle having a housing sized and shaped to be grasped by a single hand, with such a lever operable by the hand holding the housing to actuator an end effector, and where at least the thumb and index finger of the same hand holding the housing are free to grip and release a flexible shaft of the device.

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Regarding amended Claim 22, it is respectfully urged that even if one combined Takahashi and de Laforcade, the resulting combination would not teach or suggest a handle sized and shape to be gripped by a single hand, where the handle comprises an actuator for operating an end effector through a flexible member in a looped configuration.

Additionally, the two references, even if combined, would also not teach or suggest an actuator positioned on a handle to be operated by the same hand holding the handle, where the actuator is positioned to be operated without the use of the thumb or index finger of the hand holding the handle, and where the handle includes a release operable by the thumb or index finger of the same hand.

In particular, regarding de Laforcade, it would appear that the thumb of the operator's hand would be inserted in the opening of the "movable handle member" 32. The de Laforcade reference explains at column 6, Lines 42-44::

In operation of the release mechanism 12 of the present invention the operating surgeon would have fingers arranged through the fixed handle 20 and the movable handle 36.

Accordingly, it is respectfully urged that de Laforcade discloses a scissors type handle and so teaches away from the present invention. If the Examiner disagrees, the Examiner is respectfully requested to explain how one would operate the de Laforcade device other than in a way that is contrary to the Applicant's device and claims.

The present amendments do not indicate agreement with the Examiner's rejections, and all the previous arguments made in this application are preserved. All amendments are made without prejudice to Applicant filing a continuation application with claims as originally or previously presented.

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Conclusion

Based on the foregoing, all pending claims are in a condition for allowance. Accordingly, Applicant respectfully requests reconsideration and an early notice of allowance.

Respectfully submitted,

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